

COMMON INTEREST COMMUNITY BOARD

MINUTES OF MEETING

The Common Interest Community Board met on Thursday, December 10, 2009 at the Department of Professional and Occupational Regulation (DPOR), 9960 Mayland Drive, 2nd Floor, Board Room 1, Richmond, Virginia 23233.

The following members were present:

Pamela Coerse
Ronda S. DeSplinter
Kimberly B. Kacani, Vice Chair
Douglas Kleine
Milton W. Matthews
R. Lee Merritt
Scott Sterling
Lucia Anna Trigiani, Chair
Katherine Waddell (arrived at 9:44 a.m.)

Board members F. James Ahlberg and Barry S. Lineback were not in attendance.

DPOR staff present for all or part of the meeting included:

Jay W. DeBoer, Director
Mark N. Courtney, Deputy Director of LRD
Nick Christner, Deputy Director of CID
Trisha L. Henshaw, Executive Director
Heather Gillespie, Ombudsman
Thomas K. Perry, Property Registration Administrator
Betty C. Jones, Administrative Assistant
Earlyne Perkins, Legal Analyst

Steven Jack from the Office of the Attorney General was present.

Finding a quorum of the Board present, Ms. Trigiani, Chair, called the meeting to order at 9:38 a.m. **Call to Order**

Ms. DeSplinter moved to approve the agenda. Ms. Kacani seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, and Trigiani. **Approval of Agenda**

Ms. Waddell arrived at 9:44 a.m.

Arrival of Board Member

Ms. Kacani moved that the Board approve the minutes of the October 15, 2009, Informal Fact-Finding Conference as amended. Ms. DeSplinter seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Approval of Minutes

Mr. Merritt moved that the Board approve the minutes of the October 26, 2009, meeting. Ms. Coerse seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Ms. Trigiani opened the floor for public comment. No members of the public present requested to speak.

Public Comment Period

Regarding **File Number 2010-00725, Appalachian Management & Maintenance, LLC**, the Board members reviewed the record of the Informal Fact-Finding Conference which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference. Ms. Monique Parks Rorrer, the sole owner of the Appalachian Management & Maintenance, LLC, was present and addressed the Board.

File Number 2010-00725, Appalachian Management & Maintenance, LLC

The Summary and Recommendation of the Informal Fact-Finding Conference indicated that the recommendation to deny the license was due to concerns that the applicant's insurance policy did not cover losses resulting from dishonest acts committed by the officers, directors, and persons employed by the common interest community manager, consistent with § 54.1-2346.D of the Code of Virginia. Ms. Rorrer provided a statement from the underwriting department of The Hartford (Brown Insurance) that losses resulting from dishonest acts of the employees of Appalachian Management & Maintenance, LLC, including the owners, directors, and employees, are covered.

After discussion and based upon the statement from the insurance company, Ms. Kacani made a motion to reject the recommendation of the Hearing Officer and to approve the application for a common interest community manager provisional license for Appalachian Management & Maintenance, LLC. Mr. Matthews seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

Mr. Christner provided an overview of the Compliance and Investigations Division and the complaint process for the programs housed within the Department. Mr. Christner provided information on

Board Member Training Enforcement

the Common Interest Community Ombudsman's office (which is a part of the Compliance and Investigations Division), as well as general information and statistics regarding the following sections in the Division: Office of Fair Housing, Complaint Analysis and Resolution, Alternative Dispute Resolution, Investigations, and Adjudication.

Module

The Board recessed at 11:24 a.m. and reconvened at 11:45 a.m.

Break

Ms. Henshaw gave an update on the regulatory review process.

**Update on
Regulatory Review
Process**

- ❖ The permanent Common Interest Community Manager Regulations are undergoing the Governor's review. Once approved by the Governor, the regulations will be published, a 30-day comment period will commence, and regulations will become effective at the end of 30 days. The Emergency Regulations have been extended through May 12, 2010.
- ❖ The Common Interest Community Ombudsman Regulations are undergoing economic and policy review by the Department of Planning and Budget.
- ❖ The Common Interest Community Manager (Employee Certification Provisions) have completed the Notice of Intended Regulatory Action (NOIRA) stage. The Board will be reviewing public comment received during the publication of the NOIRA and providing a response. The CIC Manager Regulatory Review Committee will begin drafting regulations at their first meeting scheduled for January 14, 2010.

Based upon feedback from the Board members, the Common Interest Community Board is scheduled to be included in the next Fair Housing Training.

The Board members were provided with the public comment received from the NOIRA for the Common Interest Community Manager Regulations (Employee Certification Provisions), as well as a draft of the Board's response. The comment was received during the public comment period of September 14, 2009, to October 14, 2009. After review and discussion, Ms. Waddell moved to adopt the draft response prepared by staff. Mr. Kleine seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

**Review Summary of
Public Comment
and Adopt Board
Response for CIC
Manager
Regulations NOIRA**

As requested at the October 26th Board meeting, the Board was provided with the Guidance Document for Bonds/Insurance Policy for Common

**Review of Guidance
Document for**

Interest Community Managers prepared by staff. The Board discussed several changes to the document. Ms. Henshaw indicated that staff would revise the guidance document for bonds/insurance policy for Common Interest Community Manager form in accordance with the Board's comments. The revised document would be presented for consideration at the next Board meeting.

**Bonds/Insurance
Policy for CIC
Manager**

Ms. Trigiani requested that staff research licensure requirements for insurance companies in Virginia to ensure that the guidance document was consistent with applicable laws and regulations.

As requested at the October 26th Board meeting, the Board reviewed a draft Guidance Document for Bonds/Letters of Credit for Condominium and Time-Share Registrations. The Board discussed several changes to the document. Ms. Henshaw indicated that staff would revise the guidance document for bonds/letters of credit for condominium and time-share registrations form in accordance with the Board's comments. The revised document would be presented for consideration at the next Board meeting.

**Review of Guidance
Document for
Bonds/Letters of
Credit for
Condominium and
Time-Share
Registrations**

The Board recessed for lunch from 12:55 p.m. to 1:28 p.m.

Lunch

Ms. Henshaw discussed the draft Training Provider Application prepared by staff. The Board discussed the training program review process, including the composition of a training program (compilation of courses versus an individual course) and review of credentials for instructors. After discussion, Mr. Sterling made a motion to approve the form. Mr. Kleine seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

**Review Draft
Training Provider
Application**

The Board discussed the process for approving training providers. After discussion, the Board agreed by consensus that a Committee should be established to review the training program applications. After discussion, Ms. Kacani moved to have the following Board members serve on the Program Training Approval Committee: Mr. Kleine to serve as chair, Mr. Sterling, Ms. Coerse, Ms. DeSplinter, and Mr. Ahlberg. Ms. Coerse seconded the motion which was unanimously approved by: Coerse, DeSplinter, Kacani, Kleine, Matthews, Merritt, Sterling, Trigiani, and Waddell.

**Discuss Education
Process**

During this discussion, the Board inquired about the methods used for distributing information to affected individuals and entities. The Board

made a number of suggestions, including articles and newsletters regarding the Board and its programs, press releases, and reaching out to related groups, including title companies, mortgage brokers, settlement agents, Real Estate Bar, and Community Associations Institute. The Chair requested that staff develop an outreach plan and strategies for reaching affected groups and for obtaining and contacting individuals, entities, and associations that may not be aware of the requirement to register or obtain a license.

Ms. Henshaw provided draft legislation that was proposed by the Virginia Housing Commission Common Interest Community Work Group in an effort to clarify requirements related to the complaint process used by associations and the handling of adverse decisions made by associations by the Office of the Ombudsman. This legislation was approved by the Virginia Housing Commission.

Legislative Forecast

Ms. Trigiani provided an overview of the upcoming legislation that is being proposed for consideration during the 2010 Virginia General Assembly session as it pertains to common interest communities.

Ms. Gillespie provided the Board with the Annual Report on the Office of the Common Interest Community Ombudsman and provided a handout on developing a better understanding of the Office of the Common Interest Community Ombudsman. She discussed the background, statutory authority, inquiries, complaints, education and legal developments related to the Ombudsman.

Ombudsman's Report

Ms. Henshaw provided statistical information on common interest community applications and licenses, including the number of new applications filed, percentage of applications received, current regulations, and the regulant population for October 2009. A new section has been added pertaining to the number of telephone calls and e-mail messages received in the Board office.

**Licensing/
Registration
Statistics**

Ms. Henshaw indicated that staff is primarily working on standard manager license renewal notices and calculation fees. A letter will be mailed the first week in January to provisional manager licensees to ensure the bond is current and for submittal of the annual assessment fee required pursuant to 18 VAC 48-50-80 of the Board's regulations. In addition, Ms. Henshaw congratulated Lisa Robinson, Licensing Specialist in the CIC section, on receiving her Bachelor's degree in Business Administration.

Ms. Henshaw presented to the Board the most recent financial statement

Board Financial

for informational purposes.

Statements

The Board previously requested that staff compile a calendar of the common interest community-related events and dates that staff and the Ombudsman's office attends. The requested information was provided to the Board with the agenda package for information purposes only.

**Staff Event
Calendar**

The Board members were reminded to complete their conflict of interest forms and travel vouchers. In addition, the annual Financial Disclosure Statements are due by the end of the month.

**Conflict of Interest
and Travel Voucher
Forms**

There being no further business, the meeting was adjourned at 2:56 p.m.

Adjourn

Lucia Anna Trigiani, Chair

Jay W. DeBoer, Secretary